

**REMARKS**

In the Office Action<sup>1</sup>, the Examiner rejected claims 1-4, 6-15, and 17-23 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Publication No. 2002/0104019 to Chatani et al. ("*Chatani*") in view of U.S. Patent No. 5,845,065 to Conte et al. ("*Conte*").

By this Amendment, Applicant amends claims 1, 12, and 23, cancels claims 6, 7, 17, and 18 without prejudice or disclaimer, and adds new claims 24 and 25.

Applicant respectfully traverses the rejection of claims 1-4, 6-15, and 17-23 under 35 U.S.C. § 103(a).

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. *See* M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007). Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. *See id.* "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." M.P.E.P. § 2145. Furthermore, "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. M.P.E.P. § 2143.01(III), internal citation omitted. Moreover, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

would have been obvious." M.P.E.P. § 2141.02(I), internal citations omitted (emphasis in original).

"[T]he framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1996) . . . The factual inquiry . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III). In this application, a *prima facie* case of obviousness has not been established because the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention and the prior art. Accordingly, the Office Action has failed to clearly articulate a reason why the prior art would have rendered the claimed invention obvious to one of ordinary skill in the art.

Independent claim 1, for example, recites a content usage control apparatus, comprising, among other things, a "limitation modifying means for modifying the limitation on replacing user identification information to increase the maximum number of times user identification information can be replaced" (emphasis added). The cited references fail to teach or suggest at least this recitation of claim 1.

*Chatani* discloses a product distribution and payment system for limited use digital software products (*Chatani*, abstract). However, the Office Action concedes that *Chatani* does not "expressly disclose modifying the limitation" (Office Action at p. 5). Therefore, *Chatani* does not teach or suggest a "limitation modifying means for

modifying the limitation on replacing user identification information to increase the maximum number of times user identification information can be replaced" (emphasis added), as recited by independent claim 1.

*Conte* fails to cure the deficiencies of *Chatani*. *Conte* discloses a method for assigning network licenses for software applications (*Conte*, abstract). *Conte*'s method operates in a system where there are individual application licenses, as well as licenses that correspond to a suite of more than one application (*Conte*, FIGS. 2A-2C, col. 5 line 66 to col. 6, line 30). In some situations, a user of *Conte*'s system may hold a suite license for two or more applications that effectively blocks another user from using an application, even though there may be configurations of licenses that would allow both users to work with their needed applications (*Conte*, col. 2, lines 25-30). *Conte*'s method rearranges the way that suite and individual licenses are allocated in the system to increase the effective availability of licenses to users of the system (*Conte*, FIG. 3 and col. 7, lines 52-58 and col. 11, lines 29-38).

However, *Conte*'s method does not increase the maximum number of licenses on the system. *Conte*'s total number of licenses remains the same, and *Conte*'s method aims to efficiently allocate the total available licenses. In contrast, claim 1 recites "increase the maximum number of times user identification information can be replaced" (emphasis added). As *Conte* merely reallocates the total available licenses without increasing their number, *Conte* does not "increase the maximum number" of licenses.

Further, claim 1 recites "increase the maximum number of times user identification information can be replaced" (emphasis added). Even assuming that that

license allocation on *Conte's* network involves replacing user identification information (a position Applicant does not concede), *Conte* discloses no apparent limit on the number of times various users can share a particular license. Rather, users can apparently swap an individual or suite license back and forth as many times as they would like, so long as the total number of allocated licenses does not exceed the combined number of suite and individual licenses.

As discussed above, *Conte* does not impose a limit on the "maximum number of times user identification information can be replaced." Further, *Conte* does not increase or otherwise modify such a number, but simply allocates software licenses on a network. Therefore, *Conte* fails to teach or suggest a "limitation modifying means for modifying the limitation on replacing user identification information to increase the maximum number of times user identification information can be replaced" (emphasis added), as recited by independent claim 1.

As explained above, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention and the prior art. Accordingly, no reason has been clearly articulated as to why the claim would have been obvious to one of ordinary skill in view of *Chatani* and *Conte*. Accordingly, no *prima facie* case of obviousness has been established with respect to claim 1. Independent claims 12 and 23 distinguish over *Chatani* and *Conte* for at least the same reasons as claim 1. Claims 2-4 and 6-11 depend from claim 1, and claims 13-15 and 17-22 depend from claim 12, and are allowable at least due to their dependence from allowable base claims. Applicant therefore respectfully requests the Examiner to withdraw the rejection of these claims under 35 U.S.C. § 103(a).

The dependent claims recite additional features not taught by the cited references. For example, claim 10 recites a “content usage control apparatus . . . wherein the change limitation means charges fees for changing the maximum number of times user identification information can be replaced” (emphasis added). *Conte* discloses reconfiguring the system to support additional users if a fee is paid to the vendor who provides *Conte*’s system (*Conte*, col. 24, line 66 to col. 25, line 13), and the Office Action relies on this disclosure in addressing claim 10 (Office Action at p. 8). However, this disclosure in *Conte* relates to the total number of supported users that can use *Conte*’s license reconfiguration application. *Conte* does not suggest limiting the number of times users might replace other users of the application, so long as the total number of actual users does not exceed the total number of supported users.

Therefore, *Conte* does not teach or suggest the claimed “wherein the change limitation means charges fees for changing the maximum number of times user identification information can be replaced” as recited by dependent claim 10 (emphasis added). *Chatani* fails to cure the deficiencies of *Conte*. Dependent claim 21 is allowable over *Chatani* and *Conte* for at least the same reasons as discussed for claim 10.

In view of the foregoing remarks, Applicant respectfully requests reconsideration of the application and withdrawal of the rejections. The pending claims are in condition for allowance.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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